

103D CONGRESS
1ST SESSION

H. R. 972

To amend the Internal Revenue Code of 1986 to exclude from gross income that portion of a governmental pension which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income that portion of a governmental pension which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXCLUSION FOR CERTAIN PENSIONS AND AN-**
2 **NUITIES UNDER PUBLIC RETIREMENT SYS-**
3 **TEMS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 of the Internal Revenue Code of 1986 (relating to
6 items specifically excluded from income) is amended by re-
7 designating section 137 as section 138 and by inserting
8 after section 136 the following new section:

9 **“SEC. 137. CERTAIN PENSIONS AND ANNUITIES UNDER**
10 **PUBLIC RETIREMENT SYSTEMS.**

11 “(a) GENERAL RULE.—In the case of an individual,
12 gross income does not include any amount (otherwise in-
13 cludable in gross income) received as a qualified govern-
14 mental pension.

15 “(b) LIMITATIONS.—

16 “(1) DOLLAR LIMITATION.—The aggregate
17 amount excluded under subsection (a) for the tax-
18 able year shall not exceed—

19 “(A) the maximum excludable social secu-
20 rity benefits of the taxpayer for such year,
21 reduced by

22 “(B) the social security benefits (within
23 the meaning of section 86(d)) received by the
24 taxpayer during such year which were excluded
25 from gross income.

1 “(2) INDIVIDUAL MUST PERFORM THE SERV-
2 ICES GIVING RISE TO PENSION.—Subsection (a) shall
3 not apply to any qualified governmental pension re-
4 ceived by the taxpayer during the taxable year un-
5 less the taxpayer (or the spouse or former spouse of
6 the taxpayer) performed the services giving rise to
7 such pension.

8 “(c) DEFINITIONS.—For purposes of this section—

9 “(1) QUALIFIED GOVERNMENTAL PENSION.—
10 The term ‘qualified governmental pension’ means
11 any pension or annuity under a public retirement
12 system to the extent such pension or annuity is not
13 attributable to service—

14 “(A) which constitutes employment for
15 purposes of chapter 21 (relating to the Federal
16 Insurance Contributions Act), or

17 “(B) which is covered by an agreement
18 made pursuant to section 218 of the Social
19 Security Act.

20 “(2) MAXIMUM EXCLUDABLE SOCIAL SECURITY
21 BENEFITS.—The term ‘maximum excludable social
22 security benefits’ means an amount equal to so
23 much of the applicable maximum benefit amount for
24 the taxpayer for the taxable year which would be ex-
25 cluded from gross income if such benefit amount

1 were treated as social security benefits (within the
2 meaning of section 86(d)) received during the tax-
3 able year.

4 “(3) APPLICABLE MAXIMUM BENEFIT
5 AMOUNT.—The term ‘applicable maximum benefit
6 amount’ means—

7 “(A) in the case of an unmarried individ-
8 ual, the maximum individual social security
9 benefit,

10 “(B) in the case of a joint return, 150 per-
11 cent of the maximum individual social security
12 benefit, or

13 “(C) in the case of a married individual fil-
14 ing a separate return, 75 percent of the maxi-
15 mum individual social security benefit.

16 For purposes of the preceding sentence, marital sta-
17 tus shall be determined under section 7703.

18 “(4) MAXIMUM INDIVIDUAL SOCIAL SECURITY
19 BENEFIT.—

20 “(A) IN GENERAL.—The term ‘maximum
21 individual social security benefit’ means, with
22 respect to any taxable year, the maximum total
23 amount (as certified by the Secretary of Health
24 and Human Services to the Secretary) which
25 could be paid for all months in the calendar

1 year in which such taxable year begins as old-
2 age insurance benefits under section 202(a) of
3 the Social Security Act (without regard to any
4 reduction, deduction, or offset under section
5 202(k) or section 203 of such Act) to any indi-
6 vidual who attained age 65, and filed applica-
7 tion for such benefits, on the first day of such
8 calendar year.

9 “(B) PART YEARS.—In the case of an indi-
10 vidual who receives a qualified governmental
11 pension with respect to a period of less than a
12 full taxable year, the maximum individual social
13 security benefit for such individual for such
14 year shall be reduced as provided in regulations
15 prescribed by the Secretary to properly cor-
16 respond to such period.

17 “(5) PUBLIC RETIREMENT SYSTEM.—The term
18 ‘public retirement system’ means any pension, annu-
19 ity, retirement, or similar fund or system established
20 by the United States, a State, a possession of the
21 United States, any political subdivision of any of the
22 foregoing, or the District of Columbia.”

23 (b) TECHNICAL AMENDMENT.—Subparagraph (A) of
24 section 86(b)(2) of such Code (defining modified adjusted

1 gross income) is amended by inserting “137,” before
2 “911”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for part III of subchapter B of chapter 1 of such Code
5 is amended by redesignating the item relating to section
6 137 as section 138 and by inserting after the item relating
7 to section 136 the following new item:

“Sec. 137. Certain pensions and annuities under public retirement
systems.”

8 (d) EFFECTIVE DATE.—The amendments made by
9 this Act shall apply to taxable years beginning after the
10 date of the enactment of this Act.

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